

**SB 541 (Torklason) Motor Vehicle Fuel License  
Taxes**

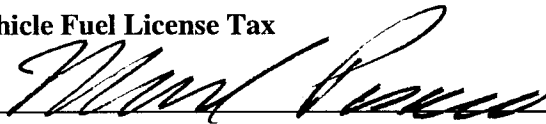
**REGIONAL COUNCIL ATTACHMENT #4.2.5**  
**Thursday, June 5, 2003**

**000111**

# REPORT

**DATE:** June 5, 2003  
**TO:** The Regional Council  
**FROM:** Tonya Gorham, Government Affairs Analyst  
Phone (213) 236-1988 – e-mail: gorham@scag.ca.gov  
**SUBJECT:** SB 541 (Torlakson) – Motor Vehicle Fuel License Tax

**EXECUTIVE DIRECTOR'S APPROVAL**



**RECOMMENDED ACTION:** The Transportation and Communications Committee recommends an oppose unless amended position.

## **SUMMARY:**

Introduced by Senator Torlakson (D-Antioch) February 20, 2003, SB 541 would index the state excise tax on gasoline and diesel fuel to the inflation rate. The bill as introduced would have also increased the tax rate further to backfill any revenue reductions to the Transportation Congestion Relief Fund or Transportation Investment Fund. As amended May 1, 2003 this language regarding backfilling revenue reductions was removed. SB 541 appears consistent with SCAG's Adopted 2003 Legislative Program, which outlines Transportation Financing as a priority and directs legislative staff to develop and support legislative proposals to increase transportation funding through both innovative and traditional concepts such as user fees and sales tax on motor vehicle fuels.

By indexing the state excise tax on gasoline and diesel fuel to the inflation rate, SB 541 helps bridge the revenue gap between Regional Transportation Plan projects and available revenues. SB 541 also comports with the 2001 RTP public funding strategy adopted by the Regional Council. One of the major elements of the strategy is to "adjust the state motor vehicle fuel excise tax rate and user fees to maintain historical purchasing power". For these reasons, staff recommended a support position on SB 541 to the Transportation and Communications Committee.

At its May 1, 2003 meeting the TCC voted to recommend a position of oppose unless amended to the Regional Council. The TCC offered the following amendments: 1) No Retroactivity; 2) Funds should be solely dedicated road transportation projects; 3) Indexing should be capped at 3%; 4) The bill should sunset in 5 years; 5) Language should be added precluding the State from taking any revenues for General Fund purposes.

## **BACKGROUND:**

As amended, SB 541 requires that the 18-cents/gallon tax rate for both gasoline and diesel be adjusted for inflation in 2004 and each calendar year thereafter. In 2004, the adjustment would be retroactive to 1994, which reflects the last year of a state gas tax increase. The legislation prescribes the method of calculating the inflationary adjustment to the tax rates for 2004 and each year thereafter. As amended, the bill would also impose a storage tax equal to inflation adjustment on each gallon of motor vehicle and diesel fuel.

## **SUPPORT:**

The following agencies support SB 541:

- Associated General Contractors of California
- Associated General Contractors of San Diego

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**OPPOSE:**

The following agencies oppose SB 541:

- California State Automobile Association
- Automobile Club of Southern California

**BILL STATUS:**

SB 541 was heard in Senate Transportation Committee on April 1, 2003 and failed passage by a vote of 3 to 4. The bill has been granted reconsideration with the next hearing date pending. The author amended the bill May 1, 2003.

**FISCAL IMPACT:**

All work related to adopting the recommended staff action is contained within the adopted FY 02/03 budget and adopted 2003 SCAG Legislative Program and does not require the allocation of any additional financial resources.

T. Gorham  
SB 541 Attachment  
docs#84291 v2



**SOUTHERN CALIFORNIA  
ASSOCIATION of GOVERNMENTS**

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AMENDED IN SENATE MAY 1, 2003

**SENATE BILL**

**No. 541**

**Introduced by Senator Torlakson**

February 20, 2003

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An act to amend Sections 7360 and 7361 of, and to add Section 8651.1 to, 7653, 60050, and 60201.1 of, and to repeal and add Sections 7361 and 60050.1 of, the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 541, as amended, Torlakson. Motor vehicle fuel license taxes: ~~use~~ diesel fuel taxes.

Motor Vehicle Fuel License Tax Law imposes a tax of 18¢ per gallon of fuel, and requires, if the federal fuel tax is reduced below the rate of 9¢ per gallon and federal financial allocations to this state are reduced or eliminated, that the tax rate be increased so that the combined state and federal tax rate per gallon equals 27¢. *The Diesel Fuel Tax Law imposes an excise tax for the use of fuel at a rate of 18¢ per gallon, and requires that, if the federal fuel tax is reduced below the rate of 15¢ per gallon and specified federal financial allocations to this state are reduced or eliminated, the tax rate be increased by an amount so that the combined state and federal tax rate per gallon equals 33¢ per gallon.*

This bill would, for the 2004 calendar year and each calendar year thereafter, require ~~that tax~~ those taxes to be adjusted for inflation, as provided. *This bill would also impose a storage tax equal to the inflation adjustment amount on each gallon of tax paid motor vehicle and diesel fuel, in storage, as provided.*

~~The Use Fuel Tax Law imposes an excise tax for the use of fuel at a rate of 18¢ per gallon on or after January 1, 1994, and requires, if the federal fuel tax is reduced below the rate of 15¢ per gallon and specified federal financial allocations to this state are reduced or eliminated, that the tax rate be increased by an amount so that the combined state and federal tax rate per gallon equals 33¢ per gallon on and after January 1, 1994.~~

~~This bill would impose an additional excise tax per gallon in the amount necessary to replace any suspended transfers of revenues to the Traffic Investment Fund or reductions from the Traffic Congestion Relief Fund. This bill would also make legislative findings and declarations in connection with that tax.~~

~~Existing law provides that a portion of the amounts collected under the Use Fuel Tax Law are continuously appropriated for expenditure for specified purposes.~~

~~Since this bill would permit an increase in the taxes collected under that law and thereby make additional moneys available for continuous expenditure, it would make an appropriation.~~

Section 3 of Article XIII A of the California Constitution requires that any change in state taxes enacted for the purpose of increasing revenues be imposed by a statute that is passed by not less than  $\frac{2}{3}$  of the members of each house of the Legislature.

Since this bill would permit an increase in state fuel taxes, this bill would require a  $\frac{2}{3}$  vote for passage.

This bill would take effect immediately as a tax levy.

Vote:  $\frac{2}{3}$ . Appropriation: yes—no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 ~~SECTION 1.—Section 7360 of the Revenue and Taxation Code~~
- 2 ~~SECTION 1. Section 7360 of the Revenue and Taxation Code~~
- 3 ~~is amended to read:~~
- 4 7360. (a) (1) A tax of eighteen cents (\$0.18) is hereby
- 5 imposed upon each gallon of *motor vehicle* fuel subject to the tax
- 6 in Sections 7362, 7363, and 7364.
- 7 (2) *Subject to paragraph (3), the rate of tax under paragraph*
- 8 *(1) shall be adjusted annually to reflect increases in the consumer*
- 9 *price index, as follows:*

1 (A) For the 2004 calendar year, the board shall recompute the  
2 rate of tax to be imposed on each gallon of motor vehicle fuel under  
3 paragraph (1). That computation shall be made as follows:

4 (i) The Department of Industrial Relations shall transmit to the  
5 board the consumer price index no later than August 1, 2003.

6 (ii) No later than October 1, 2003, the board shall compute the  
7 inflation adjustment amount and add it to the current rate of tax  
8 for 2003 (eighteen cents (\$0.18)). The sum of the two amounts  
9 shall be the adjusted rate of tax, which on the following January  
10 1 shall become the current rate of tax for 2004.

11 (B) For each calendar year thereafter, the board shall  
12 recompute the rate of tax to be imposed on each gallon of motor  
13 vehicle fuel under paragraph (1). That computation shall be made  
14 as follows:

15 (i) The Department of Industrial Relations shall transmit to the  
16 board the consumer price index no later than August 1.

17 (ii) No later than October 1, the board shall compute the  
18 inflation adjustment amount and add it to the current rate of tax.  
19 The sum of the two amounts shall be the adjusted rate of tax, which  
20 on the next following January 1 shall become the current rate of  
21 tax for the calendar year commencing on that January 1.

22 (3) The amount of the increase in the rate of tax pursuant to  
23 paragraph (2), if any, shall be limited based on the retail price for  
24 a gallon of regular unleaded gasoline, as reported by the  
25 California Energy Commission, as follows:

26 (A) No increase may occur until the retail price decreases to  
27 less than two dollars (\$2) per gallon.

28 (B) An increase in an amount up to two cents (\$0.02) per gallon  
29 may occur on and after the date that the retail price drops below  
30 two dollars (\$2) per gallon.

31 (C) An increase in an amount up to three cents (\$0.03) per  
32 gallon may occur on and after the date that the retail price drops  
33 below one dollar and ninety cents (\$1.90) per gallon.

34 (D) The entire increase may occur on and after the date that the  
35 retail price drops below one dollar and eighty cents (\$1.80) per  
36 gallon.

37 (b) If the federal fuel tax is reduced below the rate of nine cents  
38 (\$0.09) per gallon and federal financial allocations to this state for  
39 highway and exclusive public mass transit guideway purposes are  
40 reduced or eliminated correspondingly, the tax rate imposed by

1 this section, on and after the date of the reduction, shall be  
2 recalculated by an amount so that the combined state and federal  
3 tax rate per gallon equals ~~twenty-seven cents (\$0.27)~~ *nine cents*  
4 *(\$0.09) plus the current rate of tax prior to recalculation.*

5 (c) If any person or entity is exempt or partially exempt from  
6 the federal fuel tax at the time of a reduction, the person or entity  
7 shall continue to be so exempt under this section.

8 (d) *For purposes of this chapter:*

9 (1) *"Consumer price index" means the percentage change in*  
10 *the California Consumer Price Index for all items for the period*  
11 *from June 30 of the prior fiscal year to June 30 of the current fiscal*  
12 *year. However, for the calendar year 2004, consumer price index*  
13 *means the percentage change in the California Consumer Price*  
14 *Index for all items for the period from June 30, 1994, to June 30,*  
15 *2003, inclusive.*

16 (2) *"Fiscal year" means the 12-month period beginning July*  
17 *1 and ending June 30.*

18 (3) *"Inflation adjustment amount" means the product achieved*  
19 *by multiplying the current rate of tax by the inflation adjustment*  
20 *factor, rounded to the nearest one-tenth of one cent (\$0.001).*

21 (4) *"Inflation adjustment factor" means the amount computed*  
22 *by the board by adding 100 percent to the consumer price index,*  
23 *and dividing the result by 100.*

24 SEC. 2. *Section 7361 of the Revenue and Taxation Code is*  
25 *repealed.*

26 ~~7361. (a) For the privilege of storing, for the purpose of~~  
27 ~~removal, sale, or use, every distributor owning motor vehicle fuel~~  
28 ~~on January 1, 2002, shall pay a tax of eighteen cents (\$0.18) for~~  
29 ~~each gallon of motor vehicle fuel according to the volumetric~~  
30 ~~measure thereof, on which a tax has not been imposed under Part~~  
31 ~~2 (commencing with Section 7301) as in effect on December 31,~~  
32 ~~2001, and tax would have been imposed on any prior removal,~~  
33 ~~entry, or sale of motor vehicle fuel had Sections 7360 to 7363,~~  
34 ~~inclusive, applied to motor vehicle fuel for the period before~~  
35 ~~January 1, 2002.~~

36 (b) *For purposes of subdivision (a):*

37 (1) ~~"Storing" includes the possession in a storage facility,~~  
38 ~~except an approved terminal or refinery, of motor vehicle fuel as~~  
39 ~~well as the motor vehicle fuel purchased from and invoiced by the~~  
40 ~~seller prior to January 1, 2002, and in transit on that date.~~

1 ~~(2) "Owning" means having title to the motor vehicle fuel.~~

2 ~~(3) "Distributor" means any person who was required to be~~  
3 ~~licensed as a distributor under Part 2 (commencing with Section~~  
4 ~~7301) as in effect on December 31, 2001.~~

5 SEC. 3. Section 7361 is added to the Revenue and Taxation  
6 Code, to read:

7 7361. (a) For the privilege of storing for the purpose of sale,  
8 each blender, wholesaler, and retailer owning 1,000 gallons or  
9 more of tax paid motor vehicle fuel on January 1, 2004, and on  
10 January 1 of each calendar year thereafter, shall pay a storage tax  
11 equal to the inflation adjustment amount on each gallon of tax paid  
12 motor vehicle fuel in storage according to the volumetric measure  
13 thereof. However, no storage tax shall be imposed if the inflation  
14 adjustment amount is less than two cents (\$0.02) per gallon for  
15 that calendar year.

16 (b) For purposes of subdivision (a):

17 (1) "Storing" includes the possession in a storage facility,  
18 except an approved terminal or refinery, or a container of any kind,  
19 including railroad tank cars and truck or trailer cargo tanks, of tax  
20 paid motor vehicle fuel as well as the tax paid motor vehicle fuel  
21 purchased from and invoiced by the seller prior to January 1 and  
22 in transit on that date.

23 (2) "Owning" means having title to the motor vehicle fuel.

24 (3) "Wholesaler" means any person who sells motor vehicle  
25 fuel in this state for resale to a retailer or to a person who is not  
26 a retailer and subsequently uses the motor vehicle fuel.

27 (4) "Retailer" means any person who sells motor vehicle fuel  
28 in this state to a person who subsequently uses the motor vehicle  
29 fuel.

30 SEC. 4. Section 7653 of the Revenue and Taxation Code is  
31 amended to read:

32 7653. ~~(a) Each~~ On or before January 31, each person subject  
33 to the storage tax imposed under Section 7361, ~~on or before~~  
34 ~~February 28, 2002,~~ shall prepare and file with the board, on forms  
35 prescribed by the board, a return showing the total number of  
36 gallons of tax paid motor vehicle fuel owned by the person on  
37 January 1, 2002, for which a tax has not been imposed under Part  
38 2 (commencing with Section 7301) as in effect on December 31,  
39 2001 the immediately preceding January 1, the amount of the  
40 storage tax imposed, and any other information that the board



1 deems necessary for the proper administration of this part. The  
2 return shall be accompanied by a remittance payable to the  
3 Controller in the amount of tax due.

4 ~~(b) Any distributor, as defined in paragraph (3) of subdivision~~  
5 ~~(b) of Section 7361, who has tax-paid motor vehicle fuel in the~~  
6 ~~bulk transfer/terminal system on January 1, 2002, which was~~  
7 ~~purchased prior to January 1, 2002, shall report the tax-paid~~  
8 ~~gallons on the subdivision (a) return. The amount of taxes paid on~~  
9 ~~the tax-paid gallons shall constitute a credit against the amount of~~  
10 ~~taxes due and payable on the subdivision (a) return, or on the~~  
11 ~~supplier's January 2002 return required under Section 7651, and~~  
12 ~~for each succeeding return until the credit is fully utilized.~~

13 *SEC. 5. Section 60050 of the Revenue and Taxation Code is*  
14 *amended to read:*

15 60050. (a) (1) A tax of eighteen cents (\$0.18) is hereby  
16 imposed upon each gallon of diesel fuel subject to the tax in  
17 Sections 60051, 60052, and 60058.

18 (2) *The rate of tax under paragraph (1) shall be adjusted*  
19 *annually to reflect increases in the consumer price index, as*  
20 *follows:*

21 (A) *For the 2004 calendar year, the board shall recompute the*  
22 *rate of tax to be imposed on each gallon of diesel fuel under*  
23 *paragraph (1). That computation shall be made as follows:*

24 (i) *The Department of Industrial Relations shall transmit to the*  
25 *board the consumer price index no later than August 1, 2003.*

26 (ii) *No later than October 1, 2003, the board shall compute the*  
27 *inflation adjustment amount and add it to the current rate of tax*  
28 *for 2003 (eighteen cents (\$0.18)). The sum of the two amounts*  
29 *shall be the adjusted rate of tax, which on the following January*  
30 *1 shall become the current rate of tax for 2004.*

31 (B) *For each calendar year thereafter, the board shall*  
32 *recompute the rate of tax to be imposed on each gallon of diesel*  
33 *fuel under paragraph (1). That computation shall be made as*  
34 *follows:*

35 (i) *The Department of Industrial Relations shall transmit to the*  
36 *board the consumer price index no later than August 1.*

37 (ii) *No later than October 1, the board shall compute the*  
38 *inflation adjustment amount and add it to the current rate of tax.*  
39 *The sum of the two amounts shall be the adjusted rate of tax, which*

1 on the next following January 1 shall become the current rate of  
2 tax for the calendar year commencing on that January 1.

3 (3) The amount of the increase in the rate of tax pursuant to  
4 paragraph (2), if any, shall be limited based on the retail price for  
5 a gallon of diesel fuel, as reported by the California Energy  
6 Commission, as follows:

7 (A) No increase may occur until the retail price decreases to  
8 less than two dollars (\$2) per gallon.

9 (B) An increase in an amount up to two cents (\$0.02) per gallon  
10 may occur on and after the date that the retail price drops below  
11 two dollars (\$2) per gallon.

12 (C) An increase in an amount up to three cents (\$0.03) per  
13 gallon may occur on and after the date that the retail price drops  
14 below one dollar and ninety cents (\$1.90) per gallon.

15 (D) The entire increase may occur on and after the date that the  
16 retail price drops below one dollar and eighty cents (\$1.80) per  
17 gallon.

18 (b) If the federal fuel tax is reduced below the rate of fifteen  
19 cents (\$0.15) per gallon and federal financial allocations to this  
20 state for highway and exclusive public mass transit guideway  
21 purposes are reduced or eliminated correspondingly, the tax rate  
22 imposed by this section, on and after the date of the reduction, shall  
23 be ~~increased~~ recalculated by an amount so that the combined state  
24 and federal tax rate per gallon equals ~~thirty-three cents (\$0.33)~~  
25 fifteen cents (\$0.15) plus the current rate of tax prior to  
26 recalculation.

27 (c) If any person or entity is exempt or partially exempt from  
28 the federal fuel tax at the time of a reduction, the person or entity  
29 shall continue to be exempt under this section.

30 (d) For purposes of this chapter:

31 (1) "Consumer price index" means the percentage change in  
32 the California Consumer Price Index for all items for the period  
33 from June 30 of the prior fiscal year to June 30 of the current fiscal  
34 year. However, for the calendar year 2004, consumer price index  
35 means the percentage change in the California Consumer Price  
36 Index for all items for the period from June 30, 1994, to June 30,  
37 2003, inclusive.

38 (2) "Fiscal year" means the 12-month period beginning July  
39 1 and ending June 30.

1 (3) "Inflation adjustment amount" means the product achieved  
2 by multiplying the current rate of tax by the inflation adjustment  
3 factor, rounded to the nearest one-tenth of one cent (\$0.001).

4 (4) "Inflation adjustment factor" means the amount computed  
5 by the board by adding 100 percent to the consumer price index,  
6 and dividing the result by 100.

7 SEC. 6. Section 60050.1 of the Revenue and Taxation Code is  
8 repealed.

9 ~~60050.1. (a) For the privilege of storing, for the purpose of~~  
10 ~~removal, sales, or use, every wholesaler owning undyed diesel fuel~~  
11 ~~on July 1, 1995, shall pay a tax of eighteen cents (\$0.18) for each~~  
12 ~~gallon of undyed diesel fuel according to the volumetric measure~~  
13 ~~thereof, on which a tax has not been imposed under Part 3~~  
14 ~~(commencing with Section 8601) as in effect on June 30, 1995, and~~  
15 ~~tax would have been imposed on any prior removal, entry, or sale~~  
16 ~~of undyed diesel fuel had Sections 60050 to 60061, inclusive,~~  
17 ~~applied to undyed diesel fuel for the period before July 1, 1995.~~

18 ~~(b) For purposes of subdivision (a):~~

19 ~~(1) "Storing" includes the possession in a storage facility,~~  
20 ~~except an approved terminal or refinery, or a container of any kind,~~  
21 ~~including the fuel tanks of motor vehicles, of undyed diesel fuel~~  
22 ~~and the undyed diesel fuel purchased from and invoiced by the~~  
23 ~~seller prior to July 1, 1995, and in transit on that date.~~

24 ~~(2) "Owning" means having title to the undyed diesel fuel.~~

25 ~~(3) "Wholesaler" means any person who sells diesel fuel in~~  
26 ~~this state for resale to a retailer or to a person who is not a retailer~~  
27 ~~and subsequently uses the diesel fuel and was required to be~~  
28 ~~licensed under Part 3 (commencing with Section 8601) as a~~  
29 ~~wholesaler as in effect on June 30, 1995.~~

30 SEC. 7. Section 60050.1 is added to the Revenue and Taxation  
31 Code, to read:

32 60050.1. (a) For the privilege of storing for the purpose of  
33 sale, each blender, wholesaler, and retailer owning 1,000 gallons  
34 or more of tax paid diesel fuel on January 1, 2004, and on January  
35 1 of each year thereafter, shall pay a storage tax equal to the  
36 inflation adjustment amount on each gallon of tax paid diesel fuel  
37 in storage according to the volumetric measure thereof. However,  
38 no storage tax shall be imposed if the inflation adjustment amount  
39 is less than two cents (\$0.02) per gallon for that calendar year.

40 (b) For purposes of subdivision (a):

(1) "Storing" includes the possession in a storage facility, except an approved terminal or refinery, or a container of any kind, including railroad tank cars and truck or trailer cargo tanks, of tax paid diesel fuel as well as the tax paid diesel fuel purchased from and invoiced by the seller prior to January 1 and in transit on that date.

(2) "Owning" means having title to the diesel fuel.

(3) "Wholesaler" means any person who sells diesel fuel in this state for resale to a retailer or to a person who is not a retailer and subsequently uses the diesel fuel.

(4) "Retailer" means any person who sells diesel fuel in this state to a person who subsequently uses the diesel fuel.

SEC. 8. Section 60201.1 of the Revenue and Taxation Code is amended to read:

60201.1. ~~Each~~ On or before January 31, each person subject to the storage tax imposed under Section 60050.1, ~~on or before September 30, 1995,~~ shall prepare and file with the board, on forms prescribed by the board, a return showing the total number of gallons of ~~undyed~~ tax paid diesel fuel owned by the person on July 1, 1995, for which a tax has not been imposed under Part 3 (commencing with Section 8601) as in effect on June 30, 1995, the amount of the tax imposed the immediately preceding January 1, the amount of the storage tax, and any other information that the board deems necessary for the proper administration of this part.

The return shall be accompanied by a remittance payable to the board in the amount of tax due.

SEC. 9. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. is amended to read:

7360. (a) A tax of eighteen cents (\$0.18) is hereby imposed upon each gallon of fuel subject to the tax in Sections 7362, 7363, and 7364. This rate of tax shall be adjusted as follows:

(1) For the 2004 calendar year, the board shall recompute the rate of tax set forth in subdivision (a). That computation shall be made as follows:

(A) The Department of Industrial Relations shall transmit to the board the percentage change in the California Consumer Price Index for all items from September 1, 1990, to September 1, 2003, inclusive, no later than November 1, 2003.

1 (B) The board shall compute an inflation adjustment factor by  
2 adding 100 percent to that portion of the percentage change figure  
3 which is furnished pursuant to subparagraph (A) and dividing the  
4 result by 100.

5 ~~(C) The board shall multiply the estimated rate of tax in~~  
6 ~~subdivision (a) by the inflation adjustment factor determined in~~  
7 ~~subparagraph (B) and round off the resulting products to the~~  
8 ~~nearest one-tenth of one cent (\$0.001) per gallon.~~

9 ~~(2) For the 2005 calendar year and each calendar year~~  
10 ~~thereafter, the board shall recompute the rate of tax set forth in~~  
11 ~~subdivision (a). That computation shall be made as follows:~~

12 ~~(A) The Department of Industrial Relations shall transmit~~  
13 ~~annually to the board the percentage change in the California~~  
14 ~~Consumer Price Index for all items from September 1 of the prior~~  
15 ~~fiscal year to September 1 of the current fiscal year, no later than~~  
16 ~~November 1 of the current fiscal year.~~

17 ~~(B) The board shall compute an inflation adjustment factor by~~  
18 ~~adding 100 percent to that portion of the percentage change figure~~  
19 ~~which is furnished pursuant to subparagraph (A) and dividing the~~  
20 ~~result by 100.~~

21 ~~(C) The board shall multiply the estimated rate of tax in~~  
22 ~~subdivision (a) by the inflation adjustment factor determined in~~  
23 ~~subparagraph (B) and round off the resulting products to the~~  
24 ~~nearest one-tenth of one cent (\$0.001) per gallon.~~

25 ~~(b) If the federal fuel tax is reduced below the rate of nine cents~~  
26 ~~(\$0.09) per gallon and federal financial allocations to this state for~~  
27 ~~highway and exclusive public mass transit guideway purposes are~~  
28 ~~reduced or eliminated correspondingly, the tax rate imposed by~~  
29 ~~this section, on and after the date of the reduction, shall be~~  
30 ~~recalculated by an amount so that the combined state and federal~~  
31 ~~tax rate per gallon equals nine cents (\$0.09) plus the amount~~  
32 ~~calculated pursuant to subdivision (a).~~

33 ~~(c) If any person or entity is exempt or partially exempt from~~  
34 ~~the federal fuel tax at the time of a reduction, the person or entity~~  
35 ~~shall continue to be so exempt under this section.~~

36 ~~SEC. 2. Section 7361 of the Revenue and Taxation Code is~~  
37 ~~amended to read:~~

38 ~~7361. (a) For the privilege of storing, for the purpose of~~  
39 ~~removal, sale, or use, every distributor owning motor vehicle fuel~~  
40 ~~on January 1, 2002, shall pay a tax of eighteen cents (\$0.18) for~~

1 each gallon of motor vehicle fuel according to the volumetric  
2 measure thereof, on which a tax has not been imposed under Part  
3 2 (commencing with Section 7301) as in effect on December 31,  
4 2001, and tax would have been imposed on any prior removal,  
5 entry, or sale of motor vehicle fuel had Sections 7360 to 7363,  
6 inclusive, applied to motor vehicle fuel for the period before  
7 January 1, 2002. This rate of tax shall be adjusted as follows:

8 (1) For the 2004 calendar year, the board shall recompute the  
9 rate of tax set forth in subdivision (a). That computation shall be  
10 made as follows:

11 (A) The Department of Industrial Relations shall transmit to  
12 the board the percentage change in the California Consumer Price  
13 Index for all items from September 1, 1990, to September 1, 2003,  
14 inclusive, no later than November 1, 2003.

15 (B) The board shall compute an inflation adjustment factor by  
16 adding 100 percent to that portion of the percentage change figure  
17 which is furnished pursuant to subparagraph (A) and dividing the  
18 result by 100.

19 (C) The board shall multiply the estimated rate of tax in  
20 subdivision (a) by the inflation adjustment factor determined in  
21 subparagraph (B) and round off the resulting products to the  
22 nearest one-tenth of one cent (\$0.001) per gallon.

23 (2) For the 2005 calendar year and each calendar year  
24 thereafter, the board shall recompute the rate of tax set forth in  
25 subdivision (a). That computation shall be made as follows:

26 (A) The Department of Industrial Relations shall transmit  
27 annually to the board the percentage change in the California  
28 Consumer Price Index for all items from September 1 of the prior  
29 fiscal year to September 1 of the current fiscal year, no later than  
30 November 1 of the current fiscal year.

31 (B) The board shall compute an inflation adjustment factor by  
32 adding 100 percent to that portion of the percentage change figure  
33 which is furnished pursuant to subparagraph (A) and dividing the  
34 result by 100.

35 (C) The board shall multiply the estimated rate of tax in  
36 subdivision (a) by the inflation adjustment factor determined in  
37 subparagraph (B) and round off the resulting products to the  
38 nearest one-tenth of one cent (\$0.001) per gallon.

39 (b) For purposes of subdivision (a):

1 (1) ~~“Storing” includes the possession in a storage facility,~~  
2 ~~except an approved terminal or refinery, of motor vehicle fuel as~~  
3 ~~well as the motor vehicle fuel purchased from and invoiced by the~~  
4 ~~seller prior to January 1, 2002, and in transit on that date.~~

5 (2) ~~“Owning” means having title to the motor vehicle fuel.~~

6 (3) ~~“Distributor” means any person who was required to be~~  
7 ~~licensed as a distributor under Part 2 (commencing with Section~~  
8 ~~7301) as in effect on December 31, 2001.~~

9 SEC. 3. ~~Section 8651.1 is added to the Revenue and Taxation~~  
10 ~~Code, to read:~~

11 8651.1. (a) ~~The Legislature finds and declares all of the~~  
12 ~~following:~~

13 (1) ~~The excise tax on motor vehicle fuel was last increased on~~  
14 ~~January 1, 1994, when the rate was set at eighteen cents (\$0.18) per~~  
15 ~~gallon.~~

16 (2) ~~The demand on California’s state highways and streets and~~  
17 ~~local roads has increased at a far greater rate than the revenues~~  
18 ~~available to operate, maintain, and expand the transportation~~  
19 ~~network.~~

20 (3) ~~Increased motor vehicle fuel economy results in the~~  
21 ~~consumption of less fuel and the generation of less gas tax revenue~~  
22 ~~per mile driven, while inflation also erodes this slow-growing~~  
23 ~~revenue.~~

24 (4) ~~The Traffic Congestion Relief Act (Chapters 91, 92, and~~  
25 ~~656 of the Statutes of 2000) (TCRA) created a six-year funding~~  
26 ~~plan using General Fund revenue for state and local transportation~~  
27 ~~needs.~~

28 (5) ~~The TCRA created the Traffic Congestion Relief Fund~~  
29 ~~(TCRF) to support high-priority traffic-relief projects statewide,~~  
30 ~~and the Transportation Investment Fund (TIF) to distribute~~  
31 ~~funding for local street and road improvements, state highway~~  
32 ~~improvements, and public transit.~~

33 (6) ~~Rapid declines in state General Fund revenues have led to,~~  
34 ~~and could create more, suspending of transfers of gasoline sales tax~~  
35 ~~revenue to the TIF and revenue reductions in the TCRF.~~

36 (b) ~~In addition to any other tax imposed by this part, an excise~~  
37 ~~tax is hereby imposed for the use of fuel at the following rate per~~  
38 ~~gallon:~~

39 ~~An amount, adjusted annually for inflation, to replace any~~  
40 ~~revenues suspended from transfer to the Transportation~~

1 ~~Investment Fund or reduced from the Traffic Congestion Relief~~  
2 ~~Fund.~~  
3 ~~SEC. 4.—This act provides for a tax levy within the meaning of~~  
4 ~~Article IV of the Constitution and shall go into immediate effect.~~  
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